

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CHARLES LAFFERTY, JR.,

Plaintiff,

v.

WEILAND, *et al.*,

Defendants.

Case No. 3:22-cv-00147-MMD-CSD

ORDER

Pro se Plaintiff Charles Lafferty, Jr. submitted a complaint for violation of his civil rights under 42 U.S.C. § 1983. (ECF No. 3.) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney recommending that the Court deny Defendants’ motion for summary judgment (ECF No. 27 (“Motion”)) because video evidence and Lafferty’s medical records suffice to create a genuine dispute of material fact as to whether Defendants used excessive force in violation of the Eighth Amendment. (ECF No. 46.) Objections to the R&R were due December 1, 2023. (See *id.*) To date, Defendants have not objected to the R&R. The Court thus adopts the R&R in full and denies Defendants’ Motion.

Because there was no objection, the Court need not conduct *de novo* review, and is satisfied that Judge Denney did not clearly err. See *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original). A party is entitled to summary judgment as a matter of law when “the movant shows that there is no genuine dispute as to any material fact.” Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

1 In the R&R, Judge Denney recommends that the Court deny Defendants' Motion
2 because viewing all evidence in the light most favorable to Lafferty, video and medical
3 records create a genuine factual dispute as to whether Defendants used excessive force
4 during an incident at Ely State Prison. (ECF No. 46 at 6-9.) Video footage from security
5 cameras in the prison hallway shows some use of force which may be interpreted by a
6 jury, and medical records are consistent with injury. (*Id.*) Judge Denney also recommends
7 that, to the extent Lafferty requests deferral of the Court's ruling on the Motion under
8 Federal Rule of Civil Procedure 56(d), this request should be denied because Plaintiff has
9 not identified specific additional evidence needed. (*Id.* at 4-6.) Reviewing the evidence
10 and parties' filings, the Court agrees with Judge Denney and denies Defendants' Motion.

11 It is therefore ordered that Judge Denney's Report and Recommendation (ECF
12 No. 46) is accepted and adopted in full.

13 It is further ordered that Defendants' motion for summary judgment (ECF No. 27)
14 is denied.

15 DATED THIS 7th Day of December 2023.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE